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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/721,356	11/22/2000	Martin C. Flautt	24854A	9978

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OWENS CORNING
2790 COLUMBUS ROAD
GRANVILLE, OH 43023

EXAMINER

THOMPSON, CAMIE S

ART UNIT	PAPER NUMBER
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1774

DATE MAILED: 04/10/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

AS-5

Office Action Summary

Application No.

09/721,356

Applicant(s)

FLAUTT ET AL.

Examiner

Camie S Thompson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☒ Claim(s) 14 and 15 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☒ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3 6) ☐ Other: ____.

DETAILED ACTION

Oath/Declaration

1. It does not identify the city and either state or foreign country of residence of each inventor. The residence information may be provided on either on an application data sheet or supplemental oath or declaration.
2. It does not identify the mailing or post office address of each inventor. A mailing or post office address is an address at which an inventor customarily receives his or her mail and may be either a home or business address. The mailing or post office address should include the ZIP Code designation. The mailing or post office address may be provided in an application data sheet or a supplemental oath or declaration. See 37 CFR 1.63(c) and 37 CFR 1.76.

Claim Objections

3. Claims 14 and 15 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend upon any other multiple dependent claim. See MPEP § 608.01(n).

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter that the applicant regards as his invention.

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5. Claims 3, 8 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claim 3 contains the trademark/trade name PE412. Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is used to identify is used to identify/describe an emulsified polyester.

7. Claim 8 contains the trademark/trade name Duracet 675-01. Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is used to identify is used to identify/describe a vinyl polymer.

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8. Claim 11 contains the trademark/trade names Carbopol 941 and Carbopol 981. Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is used to identify is used to identify/describe an acrylic polymer.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reese, U. S. Patent No. 4,546,880 in view of Manufacturing Technology of Continuous Glass Fibers, (3rd Edition, 1993).

Reese discloses a shippable package product having reinforcing glass fibers wherein the glass fibers have an applied, dried chemical treatment known as a sizing composition as in instant claims 1 and 2 (see column 1, lines 24-25 and column 2, lines 57-58). The reference also

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discloses that the sizing composition is comprised of an emulsified polyester resin and polyvinyl acetate film former as per instant claims 1 and 6-7 (See column 16, lines 21-27 and column 6, lines 45 to column 7, lines 1-18). Reese does not disclose using PE412 as the polyester resin or Duracet 675-01 as the emulsified polyester resin and polyvinyl acetate as per instant claims 3 and 8. It is well known in the art that PE412 and Duracet 675-01 are trade names for an emulsified polyester resin and polyvinyl acetate respectively. It would be obvious to one of ordinary skill in the art to use PE412 and Duracet 675-01, as they are well known as an emulsified polyester resin and polyvinyl acetate respectively widely used for coating compositions.

Reese discloses a sizing composition comprising organic peroxide and deionized water as per instant claims 1,4,5 and 12 (see column 7, lines 34-41 and column 16, lines 32-43).

The Reese reference does not disclose using an acrylic polymer thickener as per instant claims 1 and 9-11. It is known in the art to use acrylic polymers as thickeners as shown by *The Manufacturing Technology of Continuous Glass Fibers*, (3rd Edition, 1993). It would have been obvious to one of ordinary skill in the art to use an acrylic polymer as a thickener so as to adjust the viscosity of the sizing composition. B.F. Goodrich manufactures acrylic polymers under the trade names Carbopol 941 and Carbopol 981. Therefore, it would have been obvious to one of ordinary skill in the art to use Carbopol 941 and Carbopol 981, as they are used in coatings compositions as thickeners for viscosity adjustments.

Reese discloses reinforcing glass fibers forming a strand having an applied chemical treatment and a continuous strand mat comprising the chemically treated reinforcing fibers as per instant claims 13 and 14 (see column 2, lines 64-66 and column 1, lines 5-11). The reference also

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discloses a composite, a shippable package, comprising a polymer matrix and the reinforcing mat as per instant claim 15 (see column 1, lines 6-43).

11. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Temple, U.S. Patent No. 5,130,197 in view of Eichhorn et al., U.S. Patent No. 4,596,736.

The Temple reference discloses chemically treated glass reinforced fibers wherein the applied treatment is dried as per instant claims 1 and 2 (see abstract). The reference also discloses that the applied chemical treatment comprising an emulsified polyester resin, a film former of polyvinyl acetate and deionized water as per instant claims 1,3 and 6-12 (see column 6, lines 52-68, column 7, lines 37-41 and column 9, line 49). The reference does not disclose using PE412 as the emulsified polyester resin or Duracet 675-01 as the film former as per instant claims 3 and 8. It would be obvious to one of ordinary skill in the art to use PE412 and Duracet 675-01 as they are well known in the art as an emulsified polyester resin and a polyvinyl acetate respectively widely used for chemical treatment of glass fibers.

Temple does not disclose using peroxide as a curing agent or using a thickener as in instant claims 1 and 4-5. Eichhorn teaches chemically treated fibers wherein the treatment comprises an organic emulsified resin film former. Eichhorn also teaches that thickeners and crosslinking agents such as dicumyl peroxide may be used (see column 5, 25-29). Neither reference discloses using an acrylic polymer as a thickener. B.F. Goodrich manufactures Carbopol 941 and 981 as acrylic polymers. It is well known in the art that acrylic polymers are used as thickeners.

Therefore, it would have been obvious to one of ordinary skill in the art to use Carbopol 941 and 981, as thickeners so as to adjust the viscosity of the sizing composition. A lower viscosity allows the glass fibers to be wetted without the need for solvent and solvent vapors.

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Temple discloses chemically treated glass fibers as strands for reinforcing polymeric matrices in producing plastics as in the form of a reinforcing mat or package as per instant claim 13-15 (see column 1, 10-24 and column 10, lines 21-30).

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Camie S. Thompson whose telephone number is (703) 305-4488. The examiner can normally be reached on Monday through Friday from 7:30 am to 4:00 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cynthia H. Kelly, can be reached at (703) 308-0449. The fax phone numbers for the Group are (703) 872-9310 {before finals} and (703) 872-9311 {after finals}.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.

CYNTHIA H. KELLY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

